

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

McKesson Corp., a Delaware Corp.,
Plaintiff,

No. C-07-5715 WDB

v.

**ORDER RE MAY 5, 2008, CASE
MANAGEMENT CONFERENCE**

Familymeds Group, Inc., f/k/a
Drugmax, Inc., a Connecticut
corporation,

Defendants.

Familymeds Group, Inc., f/k/a
Drugmax, Inc., a Connecticut
corporation,

Counterclaimant

v.

McKesson Corp., a Delaware
corporation,

Counterdefendant.

On May 5, 2008, the Court conducted a case management conference.

For the reasons stated on the record, the Court **ORDERS** as follows.

1. The Court **RULES** that informal production of additional materials by McKesson to Familymeds may not serve as the basis for an argument by Familymeds that McKesson has waived rights or objections.

1 2. For the reasons explained on the record, the Court DENIES
2 WITHOUT PREJUDICE McKesson's Motion to Dismiss, filed January 14, 2008.

3 3. The Court LIFTS the stay of discovery and further motions practice
4 entered in its March 13, 2008 Order.

5 Famillymeds Group may, using an appropriate procedural device, seek to add
6 Famillymeds Inc., and/or D&K as a party in this or a separate lawsuit.

7 McKesson may file a substantive motion seeking to enforce its breach of
8 contract claim. **By Wednesday, June 4, 2008**, McKesson must file with the Court
9 its substantive motion or inform the Court that McKesson does not intend to file a
10 substantive motion. If McKesson notifies the Court that it does not intend to file a
11 substantive motion the Court promptly will convene a follow up case management
12 conference to discuss scheduling.

13 IT IS SO ORDERED.

14 Dated: May 5, 2008

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17 WAYNE D. BRAZIL
18 United States Magistrate Judge

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Copies to: parties, wdb, stats